IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2846 OF 2005

Mrs.Pragati Sunilkumar Agarwal ...Applicant
vs.
Sunilkumar Agarwal and others ...Respondents

Ms B.P.Jakhade for the Applicant
Mr.Motriya for the Respondent No.1
Ms M.H.Mhatre, A.P.P. for State.

CORAM: A.S.OKA,J.
DATE : OCTOBER 11,2005

P.C.:

1. Heard Advocates for the parties. The prayer made in this Application is for transfer of the prosecution initiated by the State against Respondent Nos.1 to 4 from the Court of Judicial Magistrate First Class, Khadaki, Pune to the Court of Metropolitan Magistrate at Chembur, Mumbai. The transfer is sought mainly on the ground that the Applicant is suffering from slip-disc and therefore, she is unable to undertake travelling from Mumbai to Pune. The Application is opposed by the Respondents by pointing out that not only the Respondent No.1-husband but other members of the family are accused persons in the case pending in the Court at Khadaki, Pune and all of them are resident of Pune.

2. It must be borne in mind that the Applicant is only a witness in the pending case at Khadaki. There are five accused persons who are resident of Pune. There are number of

witnesses which are cited by the prosecution. Some of the witnesses are from Pune. The Respondent No.1 in his Affidavit in reply annexed to this Application stated that the Applicant visited Pune on 21st August 2005 and 6th September 2005. The said contention is disputed by the Applicant by filing an Affidavit in rejoinder. The learned Advocate for the Applicant submitted that false statement is made by the Advocate for the Respondent No.1 and in fact the Applicant never visited Pune as contended by him.

3. If the Applicant is a only witness in the case, for the convenience of the Applicant, prosecution cannot be transferred to Mumbai especially when all the accused persons and some of the witnesses are from Pune. No case is made out for passing the order of transfer. Application is rejected.

JUDGE